

Matthew J. Yium, OSB #054377
E-Mail: matthew.yium@foster.com

FOSTER GARVEY PC
Eleventh Floor
121 SW Morrison Street
Portland, Oregon 97204-3141
Telephone: (503) 228-3939
Facsimile: (503) 226-0259

Attorneys for Plaintiff WestRock CP, LLC

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

WESTROCK CP, LLC, a Delaware limited
liability company,

Plaintiff,

v.

MING'S RESOURCE CORPORATION, a
California corporation.,

Defendant.

Case No.

COMPLAINT

(Breach of Contract; Open Account;
Account Stated)

Prayer Amount: \$265,479.02+

DEMAND FOR JURY TRIAL

INTRODUCTION

1.

Plaintiff WestRock CP, LLC ("WestRock") brings this action against Ming's Resource Corporation ("Ming's") to recover for breach of contract and claims on an open account in connection with Ming's purchase of recyclable materials from WestRock.

COMPLAINT
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JURISDICTION AND VENUE

2.

There is diversity jurisdiction over this action pursuant to 28 U.S.C. § 1332(a) because the amount in controversy exceeds \$75,000 and because the parties are citizens of different states as alleged herein.

3.

Venue is proper in this district pursuant to 28 U.S.C. § 1391(b)(2) and pursuant to the parties' written agreement under the Terms and Conditions described in Paragraph 7 that disputes arising out of their transactions shall be subject to the jurisdiction of a court of competent jurisdiction located in a judicial district where plaintiff's manufacturing facility is located. The substantial portion of recyclable goods and services sold to defendant forming the basis for the claims made herein originated from plaintiff's manufacturing facility located at 6328 SE 100th Ave, Portland, OR 97266 in the city of Portland, Oregon.

This Court additionally has supplemental jurisdiction over claims made herein under 28 U.S.C. § 1367.

PARTIES

4.

Plaintiff WestRock CP, LLC is a Delaware limited liability company with its principal place of business in Georgia. Its sole member is an entity that is a Georgia limited liability company with its principal place of business in Georgia and with a sole member that is a

Delaware corporation. Plaintiff WestRock CP, LLC has manufacturing locations throughout the United States, including as pertinent here, in the city of Portland located in Multnomah County in the state of Oregon.

5.

Defendant Ming's Resource Corporation is a California corporation with its principal place of business in Sacramento, California.

FACTS

6.

On or about June 13, 2016, defendant opened a credit account for goods and services sold by plaintiff pursuant to written agreement of the parties ("Credit Agreement"), a copy of which is attached as **Exhibit A** (with redaction of certain financial information) and incorporated herein by reference.

7.

Under the Credit Agreement, defendant acknowledged and agreed to terms and conditions governing its purchase of goods and services from plaintiff ("Terms and Conditions"), a copy of which is attached as **Exhibit B** and incorporated herein by reference. Among the Terms and Conditions and as a material consideration for its purchase of plaintiff's goods and services, defendant acknowledged and agreed to the following:

- (a) to pay plaintiff the invoiced price for goods and services delivered to defendant by plaintiff;
- (b) to pay plaintiff for goods and services within thirty (30) days from the date of shipment;
- (c) to pay interest at the highest permissible rate under law on all past due accounts if charged by plaintiff; and
- (d) to pay all collection costs, including attorney's fees, if plaintiff retains an attorney to collect overdue amounts.

8.

In addition, under the Credit Agreement, defendant agreed to pay all amounts charged to its account, and further agreed to pay all reasonable costs, collection fees, attorneys' fees, and expenses incurred by plaintiff if defendant failed to pay its obligations and indebtedness to plaintiff when due.

**FIRST CLAIM FOR RELIEF -
COUNT ONE
(Breach of Contract)**

9.

Plaintiff hereby incorporates and adopts the paragraphs above as if set forth fully herein.

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10.

Plaintiff prepared and sold recyclable materials to defendant and sent invoices for those goods and services sold between December 14, 2019 and June 23, 2020. Pursuant to the Terms and Conditions, payment was due from defendant to plaintiff within thirty (30) days of delivery after which interest began accruing on all unpaid amounts.

11.

As reflected in the invoices, defendant purchased and failed to pay for \$258,979.02 of goods and services from plaintiff, plus accruing interest.

12.

Despite demand, defendant has failed to pay the balances due, which constitutes a material breach of the Credit Agreement and the Terms and Conditions comprising the parties' agreement.

13.

Based on defendant's failure to pay as agreed, plaintiff is entitled to a judgment against defendant in the principal amount of \$258,979.02, plus accruing pre-judgment interest from the date such sums were due and post-judgment interest at the rate of 9% per annum on such judgment until paid.

14.

In addition, plaintiff is entitled to a judgment against defendant for collection damages which defendant agreed to pay under the Credit Agreement and the Terms and Conditions, including plaintiff's reasonable costs, collections fees, attorneys' fees, and expenses, which are currently in the approximate amount of \$6,500, and which shall continue to accrue until all sums owing by defendant are paid, plus post-judgment interest on such judgment until paid.

15.

All conditions precedent with respect to the parties' agreement have been performed by plaintiff.

**FIRST CLAIM FOR RELIEF -
COUNT TWO
(Claim on Open Account)**

16.

Plaintiff hereby incorporates and adopts the paragraphs above as if set forth fully herein.

17.

At all material times, defendant held an open account with plaintiff pursuant to the Credit Agreement.

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18.

Between December 14, 2019 and June 23, 2020, defendant incurred a series of debts for goods and services provided to defendant on its account with plaintiff in the total amount of \$258,979.02, which amount remains outstanding and unpaid.

19.

The amount due and owing on defendant's account is in the principal amount of \$258,979.02, plus accruing pre-judgment interest from the date such sums were due and post-judgment interest at the rate of 9% per annum on such judgment until paid.

20.

In addition, plaintiff is entitled to a judgment against defendant for damages to which defendant agreed under the Credit Agreement, which include plaintiff's reasonable costs, collections fees, attorneys' fees, and expenses, which are currently in the amount of \$6,500, and which shall continue to accrue until all sums owing by defendant are paid, plus pre-judgment and post-judgment interest on such judgment until paid.

**FIRST CLAIM FOR RELIEF -
COUNT THREE
(Account Stated)**

21.

Plaintiff hereby incorporates and adopts the paragraphs above as if set forth fully herein.

22.

Defendant purchased parts and supplies from plaintiff and agreed to pay for the recyclable goods and supplies based on the amounts set forth in the invoices issued by plaintiff. Defendant received the invoices and did not object to the amounts listed on them.

23.

Plaintiff has made demand on defendant and provided an accounting of the unpaid amounts due and owing on its account in the amount of \$258,979.02. Defendant has not raised an objection to plaintiff's accounting or otherwise challenged the amounts owing on its account.

24.

Being so indebted to plaintiff, and having agreed to pay the balance due as set forth therein, an account was stated between plaintiff and defendant.

25.

Based on defendant's failure to pay on its account stated, plaintiff is entitled to a judgment against defendant in the principal amount of \$258,979.02, plus accruing pre-judgment interest from the date such sums were due and post-judgment interest on such judgment until paid.

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26.

In addition, plaintiff is entitled to a judgment against defendant for damages to which defendant agreed under the Credit Agreement, which include plaintiff's reasonable costs, collections fees, attorneys' fees, and expenses, which are currently in the amount of \$6,500, and which shall continue to accrue until all sums owing by defendant are paid, plus post-judgment interest at the rate of 9% per annum on such judgment until paid.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment as follows:

On its first claim for relief, a judgment in its favor against defendant in the amount of \$265,479.02, plus accruing pre-judgment interest from the date such sums were due and post-judgment interest at the rate of 9% per annum on such judgment until paid.

DATED this 22nd day of June, 2021.

FOSTER GARVEY PC

By s/ Matthew J. Yium
Matthew J. Yium, OSB #054377
E-Mail: matthew.yium@foster.com
Telephone: (503) 228-3939
Fax: (503) 226-0259

Attorneys for Plaintiff WestRock CP, LLC